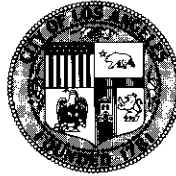


CITY OF LOS ANGELES

CALIFORNIA

COMMUNITY DEVELOPMENT
DEPARTMENT

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JAMES K. HAHN
MAYOR

Date: **JAN 12 2005**

To: All WorkSource Center Program Managers

From: Manny Chavez, Acting Director
Workforce Development Division

Subject: **INFORMATION BULLETIN NO. 05-27**
ON-THE-JOB/CUSTOMIZED TRAINING AGREEMENTS WITH
UNIONIZED EMPLOYERS

In order to provide further clarification on WIA Directive number 03-15, dated December 3, 2002, this Information Bulletin explains in detail the WIA regulations with regard to on-the-job (OJT) and customized training agreements with employers who have collective bargaining agreements in place.

All City WorkSource Center Contractors who are developing training activities for employers with collective bargaining agreements (CBAs) in place must determine whether or not the proposed activity would violate any CBA currently in effect with that employer. If the proposed WIA training activity would violate the CBA, the union and employer must concur in writing before the activity can begin. This should be documented on the Contractor's OJT or customized training form, or other documents that are kept on file.

If the proposed WIA training activity does not violate the CBA, or no such agreement is in effect, but a union presence exists at the worksite, then the Contractor should consult with and inform the union of the WIA activity that is planned, document these consultations with the union, and keep the documents in the file.

When a City Contractor determines that a WIA activity will not violate a CBA then in effect, and the union still refuses to concur in the WIA activity, the training activity may advance even without the union giving its approval. Contractors must be careful when proceeding in such a situation and should obtain a legal opinion, which confirms that the CBA will not be violated by the WIA training program. The Workforce Investment Act is clear that training shall not be used to promote or harm any union activity.

The Workforce Investment Act, Section 181 states in Section (b) Labor Standards.--

“(1) Limitations on activities that impact wages of employees.--No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.



(2) Displacement.--

(A) Prohibition.--A participant in a program or activity authorized under this title (referred to in this section as a "specified activity") shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) Prohibition on impairment of contracts.--A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) Other prohibitions.--A participant in a specified activity shall not be employed in a job if --

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) the job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation)."

These requirements are further explained in the WIA regulations at 20 CFR Sec. 667.270 (b) as follows:

"A program or activity authorized under title I of WIA must not impair existing contracts for services or collective bargaining agreements. When a program or activity authorized under title I of WIA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins."

If you have any questions or need any further information, please contact your assigned Operations Analyst.

MC:PS:JH